

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.3374 of 2022

Arising Out of PS. Case No.-406 Year-2021 Thana- GAURICHAK District- Patna

1. SURYA SAO @ SURYDEO PRASAD SON OF LATE RAM KISHUN SAO R/O VILLAGE- DARIYAPUR, P.S.- GAURICHAK, DISTRICT- PATNA
2. MUKESH KUMAR SON OF SURYA SAO @ SURYDEO PRASAD R/O VILLAGE- DARIYAPUR, P.S.- GAURICHAK, DISTRICT- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Abhinay Raj, Advocate
For the Opposite Party/s : Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 27-07-2022 Heard learned counsel appearing on behalf of the petitioners and learned counsel appearing on behalf of the State as well as learned counsel appearing on behalf of the informant.

Let the defect(s), if any, be removed within a period of four weeks from today.

The petitioners seek bail in connection with Gaurichak P.S. Case No. 406 of 2021 registered for the offence under Sections 302 and 34 of the Indian Penal Code and charge-sheet has been submitted under Section 302, 201 and 120B of the Indian Penal Code.

The accused/petitioners are named in the F.I.R. and are in custody since 21.09.2021.

The allegation against the petitioners is to commit murder of nephew (*Bhanja*) of the informant along with other



co-accused persons, for family property dispute.

Learned counsel appearing on behalf of the petitioners submitted that the informant is not the eye-witness of the occurrence and moreover, entire allegation is based upon suspicion in the background of family partition disputes. It is submitted alleged cause of death is throttling, but it appears from perusal of postmortem report, that same is from burn injury, which creates a doubts over entire allegation, in the background of family partition dispute and previous enmity. It is also submitted that petitioners are man of clean antecedent. While concluding the argument, it is submitted that investigation of this case has been completed, for which, charge-sheet has already been submitted, as such, there is no chance of tampering with the evidence.

Learned APP, while opposing the prayer of bail, fairly conceded the fact that vehemently opposes the prayer of bail of the petitioners but fairly conceded the fact that informant is not the eye-witness of the occurrence, as per FIR.

Considering the facts and circumstances as mentioned above, as informant is not the eye-witness of the occurrence, where entire allegation is based upon suspicion, and also nothing surfaced during course of investigation to connect the



petitioners, *prima-facie* with the present set of occurrence coupled with the fact that charge-sheet has already been submitted in this case, let both the petitioners, above named, are directed to be released on bail in connection with Gaurichak P.S. Case No. 406 of 2021 on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M., Patna City, Patna/concerned court, subject to the following conditions:

“(i)Accused/Petitioners shall cooperate in the trial and shall be physically present on each and every date before the Trial Court till conclusion of the trial and exemption from physical appearance be allowed by the Trial Court, only on medical ground of the petitioners duly supported by the documents.

(iii) That one of the bailors shall be Jay Ram Prasad, who is the son of the petitioner no.1 and deponent of the present bail petition.”

(Chandra Shekhar Jha, J)

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